

S.B. Sales Tax Revision Petition No.67/2000

The Commissioner, Commercial Taxes, Rajasthan,
Jaipur & Anr.

Versus

M/s. Shakti Mattresses & Gears Pvt. Ltd.,
Bhiwadi & Anr.

Date of order :: September 21, 2007

PRESENT
HON'BLE DR. JUSTICE VINEET KOTHARI

Mr. Amit Ratnawat on behalf of Mr. R.B. Mathur for the petitioner-Revenue
Mr. J.N. Sharma and Mr. Alkesh Sharma for the respondent-assessee

Heard learned counsel for the parties.

Both the learned counsels submit that the controversy involved in the present case is covered by a judgment of this court in the case of ***District Level Screening Committee, Kota & Ors. Vs. M/s. Vardhman Industries, Kota*** in S.B. Sales Tax Revision Petition No.93/2005 decided on 24.08.2007, wherein this court held that if a penalty is imposed by the assessing authority on the assessee unit, such assessee unit has compounded that penalty and paid the composition fees, it cannot be further penalized by revoking its exemption under the Sales Tax Incentive Scheme, 1987.

Para 11 of the said judgment in the case of Vardhman Industries is

quoted hereinbelow for ready reference :-

11. It would be a clear case of double jeopardy if an assessee who has already compounded a case of alleged evasion of tax, if he is further saddled with the consequence of deprivation of benefit of Incentive Scheme which is granted to him on the basis of eligible investment made by him in the State of Rajasthan. The Revenue gets the composition amount with a further waiver of right of the assessee to litigate in the matter. Therefore, the Revenue cannot further invoke other adverse consequences for the assessee on the strength of some alleged case of evasion of tax. Such a consequence is neither permitted in law nor envisaged by the provisions of the Incentive Scheme. Therefore, the Tax Board has rightly allowed the assessee's appeal and held that such benefit could not be revoked with retrospective effect on the said basis."

In view of the controversy being covered by the aforesaid judgment of this court, this revision petition is dismissed.

(Dr.VINEET KOTHARI),J.

Pramod

Item No. H/59